



NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT
Public Notice Comment Response for Permit SW277REV00
Permittee: Western Elite

Response to Comments –August 19, 2005

Introduction

In accordance with *NAC 444.6419 Permit to operate disposal site: Response by solid waste management authority to written comments concerning proposed issuance or denial of permit; publication of written comments*, the Nevada Division of Environmental Protection (NDEP) provides the following responses to comments received during the public comment period for draft permit SW277REV00. The responses by the NDEP are in italics below the comment received. After careful consideration of the comments, minor changes to the permit and the application have been made as noted under the response to the specific comment. On the basis of review of the application by the NDEP and in consideration of the comments received, NDEP intends to issue the permit to Western Elite.

The NDEP received comments from three persons within the public comment period and from one person one day after the public comment period had ended. The NDEP is considering and responding to all comments.

Comments received within the public comment period

1. Comments received from Vic Skaar.

Mr. Skaar provided comments supporting the issuance of the permit.

No NDEP response.

2. Comments received from Mr. Carl Savely of Coyote Springs Investment LLC (CSI).

CSI is concerned about the potential for odors, blowing waste debris and ground water contamination occurring at or from the site adversely affecting CSI property.

❖ Odor Emission

Response

The proposed permit is for a construction and demolition debris (C&D) Class III solid waste disposal facility. As such, the waste disposed at such sites is inherently non-odor forming. To ensure that the site only accepts C&D wastes, Appendix B of the application (Waste Characterization Plan) provides for the pre-screening, monitoring of incoming waste, training and the procedures for the removal of unacceptable wastes by the facility. Additionally, decomposition-gas monitoring probes will be installed at the boundaries of the site. These will be monitored on a regular basis to detect methane and hydrogen sulfide emissions.

❖ Blowing Waste Debris

Response

Both the application (Section 4.0 Litter Control Plan) and the permit (Section 8 Miscellaneous Conditions) require the collection of scattered paper and debris on a regular basis. The application also provides for the use of fences and a perimeter berm to control litter.



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❖ **Ground Water Contamination**

Response

This facility will be constructed with an engineered liner and leachate collection and recovery system and with groundwater monitoring wells installed at the boundary of the site. The permit requires sampling and reporting to the NDEP on a semi-annual basis. The applicant also conducted an extensive site investigation to determine if existing operations, which do not include a liner system, had impacted soil or groundwater resources. This study yielded no evidence of soil or groundwater contamination from the existing operation. Given the characteristics of the waste to be disposed and the protection provided by the engineered liner system, the potential for groundwater contamination is very low.

3. **Comments received from Mr. Terry Jones.**

- ❖ Mr. Jones stated that as a resident of Lincoln County he objected to the issuance of the permit. He expressed a concern that Western Elite had openly defied rules and directives by dumping thousands of tons of trash under the ruse of recycling. Mr. Jones stated Western Elite added very little to the economy of the County and hoped the facility would have to pay dumping fees as a condition of permit issuance.

Response

On June 6, 2005 Judge Daniel Papez of the Seventh Judicial District Court of the State of Nevada, Lincoln County signed an Amended Order which was stipulated and agreed to between NDEP and Western Elite. The Order requires Western Elite to complete various actions including moving the existing on-site waste to the proposed lined landfill within 30 months of permit issuance, establish a million dollar trust fund to assure movement of the waste and pay a \$50,000 penalty to NDEP for past violations.

Although the NDEP does not currently have regulatory authority to collect "solid waste fees", the 2005 Legislature modified NRS 444.560 to allow the State Environmental Commission to adopt a schedule for such fees. Under the revised law, fees could be collected for the disposal of solid waste, or for the issuance of permits to solid waste facilities, regulated by the NDEP. The NDEP will petition the SEC to adopt a fee schedule in 2006. Depending on how this fee schedule is structured, the Western Elite Class III site may be subject to fees in the future.

It should also be noted that NRS 444.520 authorizes a municipality that has an approved solid waste management plan to "provide for the levy and collection of other or additional fees and charges" for solid waste management.

Comments received outside of the public comment period

1. **Response to Mr. Alan Gaddy of Republic Services of Southern Nevada**

Mr. Gaddy provided comment on the following technical and general concerns related to the Western Elite Facility.



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- ❖ Comment - In general, this landfill will be the largest, most active Class III Landfill in southern Nevada accepting 50,000 yards monthly, 600,000 yards annually. The monitoring activities should be increased to reflect those operations. Yet, the Operations Plan for monitoring and inspection reflect operations of a small rural disposal site for construction debris. Accordingly, Republic Services offers the following comments:

Response

The size and scope of the proposed facility were carefully evaluated during the application review. The monitoring requirements imposed by the permit are appropriate for the size of the facility.

- ❖ Comment - The Class III Landfill is described as greater than 30 miles from residents. The applicant is not recognizing the Coyote Springs Development initiated by Pardee Homes immediately adjacent to the proposed Landfill. The Beautification Plan developed appears inconsistent with NAC 444.678 (5) and (6) - Location Restrictions, describes land use conformity, and not be within 1000 feet of a public highway, or 1/4 mile of dwellings.

Response

The Class III Landfill is located in a M-2 (heavy industrial) designated area. Vacant land located across SR 93 is within the boundaries of the Coyote Springs Development and has received a "Planned Unit Development" designation from Lincoln County. This designation does not contain any specific zoning but rather recognizes a changing aspect to land use as the developer's plans mature. The Western Elite facility is in an area that is designated for its type of activity.

NAC 444.678, subsection 6, requires that the site "not be within one-fourth mile of the nearest inhabited dwelling or place of public gathering or be within 1,000 feet of a public highway, unless special provisions for the beautification of the site and the control of litter and vectors are included in the design and approved by the solid waste management authority."

The site is not within one-fourth mile of the nearest inhabited dwelling. It is however, located within 1000 feet of a public highway, and was therefore required to submit a Beautification Plan in accord with NAC 444.735, and this is included within the Application

- ❖ Comment - The Waste Characterization Plan describes pre-screening of waste accepted at the landfill performed at a pre-approved contractor's location. The landfill operation should inspect and document the rejection of loads attempted for disposal into the landfill. Republic recommends Random Load Inspections and Sampling in addition to visual inspections at the Landfill Facility. The Operations Plan should also reflect notification to NDEP of rejected loads for follow up.



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Response

The application has been modified to include documentation of random load inspection. Notification to NDEP was included in Appendix B, Waste Characterization Plan, section 3.0.

- ❖ Comment - The Waste Characterization Plan, as well as the Operation Plan, describe pre-screening efforts to prohibit "putrescible" waste from entering the landfill. Though not prohibited, the paper, gypsum wallboard and sheetrock, cardboard and wood, typical as Construction and Demolition Debris, are putrescible. As acknowledged within the Application, the landfill will be controlling the expected methane and landfill gas odors from the landfill operations. Those gases are bi-products of the decomposition of waste by microorganisms that act rapidly enough to create nuisance odors, and gases that are regulated. Republic recommends language be placed into the Application and the Permit that acknowledges the putrescible nature of the waste accepted as non-recyclable Construction and Demolition Debris, but also prohibits acceptance of Garbage or Refuse into the Class III Landfill. Section 10.0, Para 2, describing the facilities use of static windrows would need revision.

Response

The definition of "Putrescible" can be found at NAC 444.608: "Putrescible" means capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases

Putrescible waste is not addressed in the regulatory requirements for a Class III site (NAC 444.731 through 444.74779). It is, however, addressed in the requirements for Class I and II sites, which receive municipal solid waste. The draft permit does not provide for the acceptance of what would be more commonly referred to as "Garbage". Further the waste proposed and permitted meets the following:

NAC 444.585 "Industrial solid waste" defined.

- 1. "Industrial solid waste" means solid waste derived from industrial or manufacturing processes, including, but not limited to, the solid waste generated by the:*

...

- (p) Construction, refurbishing or demolition of buildings or other structures*

The NDEP does not subscribe to the view that C&D Waste should be included in the classification as a putrescible waste, however, to clarify the exclusion requirement the Permit will be modified to prohibit the acceptance of garbage, as defined at NAC 444.578.

- ❖ Comment - The Decomposition Gas Monitoring Plan fails to address the requirements of NAC 445B.22073 for the control of methane from landfills. Republic recommends modification of the Decomposition Gas Monitoring Plan accordingly to include details of surface emissions monitoring. Section 6.0 of the Operations Plan should also be revised to match.



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NAC 445B.22073 regulates the emissions of non-methane organic compounds from municipal solid waste landfills (MSWLF). In this regulation the definition of a MSWLF is taken from 40 CFR §60.751, where it is defined as a landfill that receives household waste. The Western Elite permit prohibits acceptance of household waste. Therefore it is not subject to the requirements of NAC 445B.22073.

- ❖ Comment - The Landfill Operations Plan is confusing in that it describes in detail the operations of the compost and mulching operations. Republic does take this opportunity to comment that 600 days seems excessive to convert windrows of construction and demolition material into a product as described in all of Section 10.

Response

The activities authorized by this permit are limited to the operation of the Class III disposal site and do not include the operation of the composting and mulching operation. The composting and mulching operation are addressed by a 2001 Order and a 2005 Amended Order issued by the Seventh Judicial Court, Lincoln County. The Amended Order requires the movement of material from the composting and mulching operation to the Class III disposal site.

- ❖ Comment - The operations plan, Section 5.0, first paragraph, does not include asbestos as a prohibited waste subject to rejection upon discovery. Asbestos Containing Material (ACM) is a common demolition issue, and the Operation Plan should address the proper handling of Asbestos. Republic recommends a specific section within the Operations Plan to address handling of Asbestos as a compound regulated by the Toxic Substance Control Act.

Response

The application has been modified to specifically prohibit the disposal of asbestos waste and includes notification to NDEP. Since the facility is not authorized to dispose of asbestos waste regulated by the Toxic Substance Control Act a specific section for handling such waste was not included.

- ❖ Comment – Daily cover described in the Operations Plan, Section 3.0, para 1, conflict with the Weekly Cover described in Operations Plan, Section 11, first sentence. NDEP should approve the application of cover at a frequency to protect human health and the environment, and the Plan should be revised accordingly.

Response

Both section 3.0 and section 11 of the Operations Plan refer to weekly cover. The NDEP believes that application of weekly cover, as described in the Operations Plan, is sufficient for this operation.